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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

EX PARTE PRESENTATION

The Honorable William E. Kennard
Chairman
Federal Communications Commission
1919 M Street, N.W., Room 814
Washington, D.C. 20554

The Honorable Susan Ness
Commissioner
Federal Communications Commission
1919 M Street, N.W., Room 832
Washington, D.C. 20554

The Honorable Michael K. Powell
Commissioner
Federal Communications Commission
1919 M Street, N.W., Room 844
Washington, D.C. 20554

The Honorable Harold Furchtgott-Roth
Commissioner
Federal Communications Commission
1919 M Street, N.W. Room 802

The Honorable Gloria Tristani
Commissioner
Federal Communications Commission
1919 M Street, N.W., Room 826
Washington, D.C. 20554

**Re: CC Docket No. 96-115 – Customer Proprietary Network Information
(CPNI) Electronic Audit Requirement (47 C.F.R. § 64.2009(c))**

Dear Mr. Chairman and Commissioners:

The Commission previously determined that the mechanized safeguard requirements imposed by its February 1998 *CPNI Order*¹ should be in place by January 26, 1999. As you know, however, many members of the telecommunications industry, including both wireless and wireline companies and trade associations, have requested that the Commission either reconsider these requirements, stay them or forbear from applying them either permanently or temporarily. SBC Communications Inc. (SBC) supports these industry efforts for the reasons

¹ Implementation of the Telecommunications Act of 1996: Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information, CC Docket No. 96-115, Second Report and Order, released February 26, 1998, FCC 98-27 (*CPNI Order*), paragraph 202.

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summarized by the July 20, 1998 industry letter submitted in this docket.²

The purpose of this correspondence is to report to you the particularly onerous, and immediate, costs and other burdens SBC will be required to absorb should the Commission not provide some form of relief with respect to the electronic audit mechanism requirements of FCC Rule 64.2009(c). In light of these burdens, SBC reiterates its and other industry members' requests that the Commission eliminate or defer Rule 64.2009(c). Should the Commission decline to do so, however, SBC submits a third alternative. This alternative would require that all carriers track, either electronically, mechanically or manually, any access to, or use or disclosure of, CPNI in aid of or in connection with outbound marketing activities. SBC also emphasizes that whichever course the Commission may determine to take, action must be taken now. Both the public interest and the industry will suffer without your guidance on this most important matter.

At present, the electronic audit mechanism instituted by a carrier in accordance with paragraph 199 of the *CPNI Order* and 47 C.F.R. § 64.2009(c) would:

- Track access to customer account(s)
- Record when a customer's account record is opened, by whom and for what purpose
- Maintain histories of such contact for a minimum of one year

Notwithstanding the fact that the full extent of the electronic audit mechanism requirement remains unclear,³ SBC has attempted to prepare an estimate of

² Letter to Chairman Kennard and Commissioners Furchtgott-Rott, Ness, Powell and Tristani, from PCIA, USTA, CTIA, CompTel, OPASTCO, NRTA, Small Business in Telecommunications, ITTA, ACTA, and NCTA, CC Docket No. 96-115, filed July 20, 1998.

³ For example, there are implementation questions about whether the requirement applies only to databases vulnerable to "unauthorized, 'casual' perusal" (i.e., only those databases accessible to marketing/sales personnel, as only they might have any arguable incentive to engage in such viewing). *CPNI Order*, paragraph 199. Other implementation questions abound regarding what constitutes an "account".

Accordingly, for purposes of compiling these costs, SBC assumed that costs would be incurred with respect to all databases that contain CPNI data, including those that would be accessed by a wide variety of employees and for a wide variety of reasons far removed from marketing and sales activities (e.g., installation and/or maintenance technicians on premise visits, business office personnel rearranging a due date for an order or answering a customer's billing question). Stated another way, the costs are not limited to instances of the "system-to-system" access which is characteristic of drawing customer lists for

electronic audit mechanism compliance costs. These costs would be incurred by applying the rule literally to all customer records stored in the primary database systems operated by (1) its wireline carrier subsidiaries Southwestern Bell Telephone Company, Pacific Bell and Nevada Bell, (2) its wireless carrier subsidiaries Southwestern Bell Mobile Systems, Inc., Southwestern Bell Wireless, Inc. and Pacific Bell Mobile Services, and (3) certain other of its affiliates (e.g., SBC Long Distance).

The costs SBC has estimated have been divided into two amounts: *Initial Development Costs* and *Annual Maintenance, Storage and Processing Costs*. As the attachment demonstrates, these costs could well exceed hundreds of millions of dollars. Such costs are not justified by the benefits the Commission sought to attain, principal among which is to discourage unauthorized casual perusal. Unless the electronic audit mechanism requirement is either withdrawn or limited to an acceptable benefit/cost level, SBC cannot develop and implement the requirement without being forced to suffer unnecessary expense.

Moreover, implementing the electronic audit mechanism without any clarification by the Commission regarding its breadth and scope would jeopardize the success of SBC's extensive Year 2000 ("Y2K") implementation efforts, because the Commission's audit mechanism deadline of January 26, 1999 requires that carriers move that matter to the "front burner." Unfortunately, the same Information Technology resources are required to support both the Y2K and electronic audit projects. Yet, internal resources have already been dedicated to the Y2K project, and external resources are extraordinarily difficult to secure. Individuals with the requisite specialized skills and expertise are in high demand, both by SBC and other companies as the year 2000 moves steadily closer.

SBC urges the Commission to do one of three things, at a minimum:

First, the preferable course, urged by most commenters and the industry at large, would be to eliminate entirely the electronic audit requirement as cost-prohibitive and unnecessary given the remaining safeguards put into place by the *CPNI Order*.

Alternatively, the Commission should grant carriers additional time, perhaps from 2 to 5 years, to implement the requirement, so as to allow carriers the needed time for development of systems requirements and modifications, purchase of hardware for storage (DASDs, CPUs), testing, and all other standard phases of systems

outbound marketing campaigns, based upon pre-defined CPNI criteria (e.g., a carrier database accessing customer records, based on pre-defined selection criteria, from centrally-administered marketing decision support systems for potential sales campaigns).

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development life cycles. If an appropriate timeframe for systems development is not allowed, customers could encounter slow response time from service representatives and others using these systems in customer contact situations, thus creating longer customer contact times and business office "accessibility" pressures.

As a third option, the Commission should clarify that (1) the requirement applies only to those databases containing CPNI that may be accessed or used in aid of or in connection with outbound marketing campaigns, and that (2) the requirement attaches only to the database and not each of the perhaps millions of accounts stored within the database. User access to such databases at SBC is secured today by a system of log-on procedures that include user ID and password restrictions, and each instance of user access to the databases is electronically recorded to reflect what database was entered, by whom, and when.

The more limited requirement represented by this third alternative would necessitate but a single entry for each database of customer accounts for which access by an individual may be sought, rather than the making of a separate electronic notation for each account accessed (which may be in the millions for a single instance of database access). As the attached indicates, SBC could incur truly astronomical costs were it required to track and store individual instances of account access in database wide efforts made for outbound marketing campaigns (approximately \$900,000,000 per year if a separate account-specific electronic audit notation must be made for all "system-to-system" access - i.e., if a program accesses a marketing database in connection with a campaign, scanning 20 million customer records and producing 15,000 customer accounts meeting certain parameters, and electronically noting each of the 20 million records).

In sum, SBC requests, as have virtually all other members of the telecommunications industry, that the Commission take account of the exorbitant and inefficient expenditures required by the electronic audit requirement and that it eliminate this requirement expeditiously or, at least, minimize its impact as suggested herein. We look forward to meeting with you and your staffs about this matter at the earliest opportunity.

Respectfully submitted,

A handwritten signature in cursive script, reading "Zeke Robertson".

Dale (Zeke) Robertson
Senior Vice President

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Attachment

cc: Mr. John T. Nakahata
Mr. Ari Fitzgerald
Mr. Thomas C. Power
Mr. Paul Misener
Mr. Kevin Martin
Mr. James Casserly
Mr. Dan Connors
Mr. Peter Tenhula
Mr. Kyle Dixon
Mr. Paul Gallant
Ms. Karen Gulick
Ms. Kathryn C. Brown
Mr. Dan Phythyon
Ms. Carol E. Matthey
Ms. Blaise Scinto
Ms. Linda Kinney
Mr. Brent Olson
Secretary Magalie Roman Salas

ATTACHMENT

Electronic Audit Mechanism

Initial Development Costs

Nevada Bell, Pacific Bell and Southwestern Bell Systems

<i>Sales Operations Systems</i>	\$20,430,000
<i>Billing Systems</i>	\$11,420,500
<i>Sales Decision Systems</i>	\$3,459,000
<i>Provisioning/Network Operations Systems</i>	\$16,590,000
<i>Marketing Decision Support Systems</i>	\$724,000
NB, PB & SWBT SUBTOTAL	\$52,623,500
AFFILIATES SUBTOTAL	\$1,590,500
GRAND TOTAL	\$54,214,000

Annual Maintenance, Storage and Process Costs

Nevada Bell, Pacific Bell and Southwestern Bell

Ongoing maintenance costs for non-marketing decision support system databases will be approximately \$40,000,000 to \$60,000,000 on an annual basis, representing standard maintenance costs for items such as table updates, maintenance fixes, correction of production problems, archive obsolete data, running reports, et cetera.

Ongoing maintenance for marketing decision support system databases will be approximately \$900,000,000, conservatively estimated. This sum assumes that each instance of recording access to a customer's "account" will require creation of a 68-position record, that over 7 trillion such records would need to be created, that over one-half million gigabytes of electronic storage capacity would need to be created, at a cost per gigabyte of approximately \$150. The amount of data captured in the manner envisioned by this cost estimate exceeds the total amount of data SBC anticipates it would need to capture and store over the next 40 to 50 years in the course of its regular business without regard to the electronic audit mechanism.